



U.S. Department
of Transportation

Research and
Special Programs
Administration

Office of the
Chief Counsel

400 Seventh St. S.W.
Washington, D.C. 20590

DEC 4 1990

Ms. Susan Denny
Acting Director
Transportation Management Division
Office of Technology Development
Department of Energy
Washington D.C. 20585

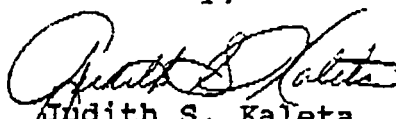
Dear Ms. Denny:

Your letter of September 4, 1990 to the Associate Administrator for Hazardous Materials Safety, Mr. Alan Roberts, was referred to the Office of Chief Counsel for response. In your letter you requested the Research and Special Programs Administration's (RSPA) opinion on the application of the Hazardous Materials Transportation Act (HMTA) and Hazardous Materials Regulations (HMR) to government-owned, contractor-operated vehicles and to government-owned, government-operated vehicles.

The HMTA, 49 U.S.C. App. 1801 et seq., did not define a "person" subject to its jurisdiction. However, the Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. No. 101-615), signed on November 16, 1990, which amends the HMTA, now defines "person" to include "agency or instrumentality of any government...when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise..." Sec. 3. This definition codifies RSPA's longstanding position that the HMTA and HMR apply to the Federal government when the government is acting in furtherance of a commercial enterprise or using a commercial carrier. Furthermore, HMTA has been amended to clarify that federal contractors fall within its jurisdiction. A Federal contractor who "transports, or causes to be transported or shipped, a hazardous material ...shall be subject to" the provisions of the Act "in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce..." Pub. L. No. 101-615 Sec. 20.

If we can be of further assistance, please let us know.

Sincerely,


Judith S. Kaleta
Chief Counsel